

210586

April 12, 2004

Victoria Rutson  
Chief, SEA  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423-0001



**Re: Surface Transportation Board Docket No. AB-6 (Sub-No. 416X);  
The Burlington Northern and Santa Fe Railway Company  
Abandonment of Souris, North Dakota to Westhope, North Dakota**

*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Michael A. Smith  
Senior Counsel  
Direct 312.360.6724  
Fax 312.360.6598  
msmith@  
freebornpeters.com

Dear Ms. Rutson:

On or after May 4, 2004, we are filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 15.50 miles of railroad line between M.P. 52.00 near Souris, in Bottineau County, North Dakota and M.P. 67.50 near Westhope, in Bottineau County, North Dakota, which traverses through United States Postal ZIP Codes 58783 and 58793. Attached are a Environmental and Historic Reports describing the proposed action and any expected environmental or historic effects, as well as a map of the affected area.

*Chicago*

*Springfield*

Sincerely,

Michael A. Smith

Enclosures

ENTERED  
Office of Proceedings  
APR 13 2004  
Part of  
Public Record

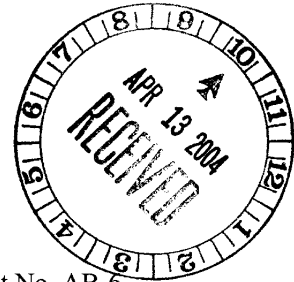
210586

BEFORE THE  
SURFACE TRANSPORTATION BOARD

In the Matter of The  
Burlington Northern and Santa Fe  
Railway Company Notice of Exemption  
to Abandon Its Line of Railroad  
Between M.P. 52.00 near Souris, Bottineau  
County, North Dakota and M.P. 67.50  
Near Westhope, Bottineau County, North Dakota

ENTERED  
Office of Proceedings

APR 13 2004



Docket No. AB-6  
(Sub No. 416X)

**ENVIRONMENTAL REPORT**

The following information is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption for abandonment of its line between M.P. 52.00 near Souris, Bottineau County, North Dakota and M.P. 67.50 near Westhope, Bottineau County, North Dakota, total distance of 15.50 miles.

(1) **Proposed action and Alternatives:** Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF seeks to abandon and discontinue service of the line. A map of the line is attached as Exhibit A.

(2) **Transportation system:** Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

The proposed abandonment will have no effect on existing transportation systems or patterns as the line is out of service.

**(3) Land Use:**

(i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

BNSF believes that the proposed should be consistent with local or regional land use plans. The Bottineau County Board of Commissioners were notified by letter dated December 10, 2003. See Exhibit B, letter to the Bottineau County Board of Commissioners. As of the date of this report, the Board of Commissioners has not responded. BNSF will provide the Board copies of any response it may receive.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agriculture land.

Prime farmlands are in the project area but the abandonment activity is expected to have minimal impact on the prime farmland. See Exhibit C, letter from the Natural Resources Conservation Service.

(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9

N/A

(iv) If the proposed action is abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10906 and explain why.

The right of way may be suitable for alternative public use. The Bottineau County Board of Commissioners were notified by letter dated

December 10, 2003. See Exhibit B, letter to the Bottineau County Board of Commissioners. As of the date of this report, the Board of Commissioners has not responded. BNSF will provide the Board copies of any response it may receive.

**(4) Energy:**

(i) Describe the effect of the proposed action on transportation of energy.

To the best of BNSF's knowledge there are no undeveloped energy resources such as oil, natural gas or coal in the vicinity of this line.

(ii) Describe the effect of the proposed action on recyclable commodities.

This abandonment and discontinuance will not adversely affect movement or recovery of recyclable commodities as the line is out of service.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

This abandonment will not result in an increase or decrease in overall energy efficiency as the line is out of service.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in the energy consumption and show the data and methodology used to arrive at the figure given.

There will be no diversions of traffic because the line is out of service.

**(5) Air:**

(i) If the proposed action will result in either:

(A). An increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of the line effected by the proposed, or

No.

(B). An increase in rail yard activity of at least 100% (measured by carload activity), or

No.

(C). An average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

The action will not involve an increase in truck traffic of more than 10% or 50 vehicles a day on any affected road segment as the line is out of service.

(ii) If the proposed action affects a Class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three train a day on any segment of rail line, or

(B) An increase in rail yard activity of at least 20% (measured by carload activity), or

(C) An average increase in truck traffic or more than 10-% of the average daily traffic of 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or in a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed abandonment will not result in an increase of rail or truck traffic because the line is out of service.

(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and from) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

The proposed abandonment will not result in an increase of rail or truck traffic because the line is out of service.

**(6) Noise:** If any of the thresholds identified in item (5)(c) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more,

N/A

(ii) An increase to a noise level of 76 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for those receptors if the thresholds are surpassed.

N/A

**(7) Safety:**

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings).

This abandonment should have no adverse effect on health or public safety. There are 16 public crossings and 11 private crossings.

During salvage operations on the line, if any may be required, precautions will be taken to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety

practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

Abandonment will not result in transportation of hazardous materials.

(iii) If there are any known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

BNSF is not aware of any evidence of known hazardous waste site or sites where there have been known hazardous materials spills on the right of way.

**(8) Biological resources:**

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

BNSF believes the proposed abandonment will have no adverse impacts to fish and wildlife resources. The U.S. Fish and Wildlife Service does not object to the project as proposed provided that their recommendations are incorporated into the project plan. See Exhibit D, letter from the U.S. Fish and Wildlife Service.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

The Bureau of Land Management advises it does not have any wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact area. See Exhibit E, letter from Bureau of Land Management. The project as defined does not affect state park lands that the North Dakota Parks and Recreation Department manages or Land and Water Conservation Fund recreation projects that the Department

coordinates. See Exhibit F, letter from the North Dakota Parks and Recreation Department. Approximately 1.8 miles of the line crosses J. Clark Salyer National Wildlife Refuge (NWR). See Exhibit D, letter from the U.S. Fish and Wildlife Service.

**(9) Water:**

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

BNSF believes that the proposed exemption will be consistent with applicable Federal, State or local water quality standards. The North Dakota Department of Health was notified by letter dated December 10, 2003. See Exhibit G. As of the date of this report, the North Dakota Department of Health has not responded. BNSF will provide the Board copies of any response it may receive.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year floodplains will be affected. Describe the effects.

Permits under 404 of the Clean Water Act are not required for the proposed abandonment. See Exhibit H, letter from the Army Corps of Engineers. BNSF believes the proposed exemption will not affect the 100-year floodplain. Bottineau County Emergency Management was notified by letter dated December 10, 2003. See Exhibit I, letter to the Bottineau County Emergency Management. As of the date of this report, the Bottineau County Emergency Management has not responded. BNSF will provide the Board copies of any response it may receive.



(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.

Based on previous experience with out of service abandonments, BNSF believes that permits under Section 402 of the Clean Water Act are not required for the proposed abandonment. The North Dakota Department of Health was notified by letter dated December 10, 2003. See Exhibit G. As of the date of this report, the North Dakota Department of Health has not responded. BNSF will provide the Board copies of any response it may receive.

**(10) Proposed Mitigation:** Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Any salvage operations that may result will be in accordance with BNSF's general practice of requiring its private contractors to comply with all federal, state and local laws and regulations pertaining to the environment, including, but not limited to noise, air quality, water quality, and items of archaeological significance. The project itself should mitigate the environmental effects of reinstating active rail operations

Respectfully Submitted,



Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

Date: April 8, 2004

BEFORE THE  
SURFACE TRANSPORTATION BOARD

In the Matter of The  
Burlington Northern and Santa Fe  
Railway Company Notice of Exemption  
to Abandon Its Line of Railroad  
Between M.P. 52.00 near Souris, Bottineau  
County, North Dakota and M.P. 67.50  
Near Westhope, Bottineau County, North Dakota

Docket No. AB-6  
(Sub No. 416X)

**HISTORICAL REPORT**

The following is submitted to the Surface Transportation Board by The  
Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the  
Board's reporting requirements set forth in 49 C.F.R. § 1105.8 for the purpose of assisting  
the Board's environmental and historical assessment regarding BNSF's Notice of  
Exemption to abandon its line of railroad between M.P. 52.00 near Souris, North Dakota  
to M.P. 67.50 near Westhope, in Bottineau County North Dakota, a total distance of  
15.50 miles.

(1) A U.S.G.S. topographic map (or alternate map drawn to scale and sufficiently  
detailed to show buildings and other structures in the vicinity of the proposed action)  
showing the location of the proposed action, and the locations and approximate  
dimensions of the railroad structures that are 50 years old or older and are part of the  
proposed action;

One copy of a U.S.G.S. Topographical map has been provided to the State  
Historical Society of North Dakota and one copy is being provided to the Surface  
Transportation Board's Section of the Environmental Analysis upon filing of this Report.

(2) A written description of the right-of-way (including approximate widths, to  
the extent known) and the topography and urban and/or rural characteristics of the  
surrounding area:

The Souris to Westhope, North Dakota line connects the rural towns of Souris, Roth, Landa and Westhope. The North Dakota League of Cities City Directory lists the population of these towns as 83 for Souris, 48 for Roth, 28 for Landa and 533 for Westhope.

Most of the adjoining land along the right of way is generally flat to rolling and is used for agricultural purposes. Wheat is the major crop with some barley being grown in the area. The area along the line is used for farming. The right of way is 100 feet in width with varying widths at the stations along the line.

(3) Good quality photographs (actual photographic prints, not photocopies) or railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

There are no bridges or structures that are 50 years or older in the immediate area of the abandonment.

(4) The date(s) of construction of the structures, and the date(s) and extent of any major alterations, to the extent such information is known;

N/A

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

The right of way was acquired by the Dakota and Great Northern Railway Company, a predecessor to the Great Northern Railway (GN). In 1970 the GN merged to become part of the Burlington Northern Railroad (BN). In 1995 BN merged with The Atchison Topeka and Santa Fe Railway (ATSF) to become The Burlington Northern and Santa Fe Railway Company (BNSF).

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is to be historic;

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. Such documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archaeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

The State Historical Society of North Dakota recommends that a Class I Cultural Inventory of the Area of Potential Effect (APE) be prepared and submitted to them for consultations. The State Historical Society of North Dakota also recommends that any previously unrecorded and unevaluated abandoned or to-be-abandoned stations over 50 years of age along the railway line (i.e., in the Cities of Westhope, Landa, Roth and Souris, and any other stations) be recorded and preliminarily evaluated by a state-permitted cultural resource firm. See Exhibit J, letter from the State Historical Society of North Dakota. BNSF has commissioned a survey and will provide the North Dakota Historic Preservation Office and the STB with supplemental information as it comes available.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

BNSF is not aware of any known prior subsurface ground disturbance or fill or any other environmental conditions (naturally occurring or man-made) that might affect the recovery of archaeological resources.

Respectfully submitted,

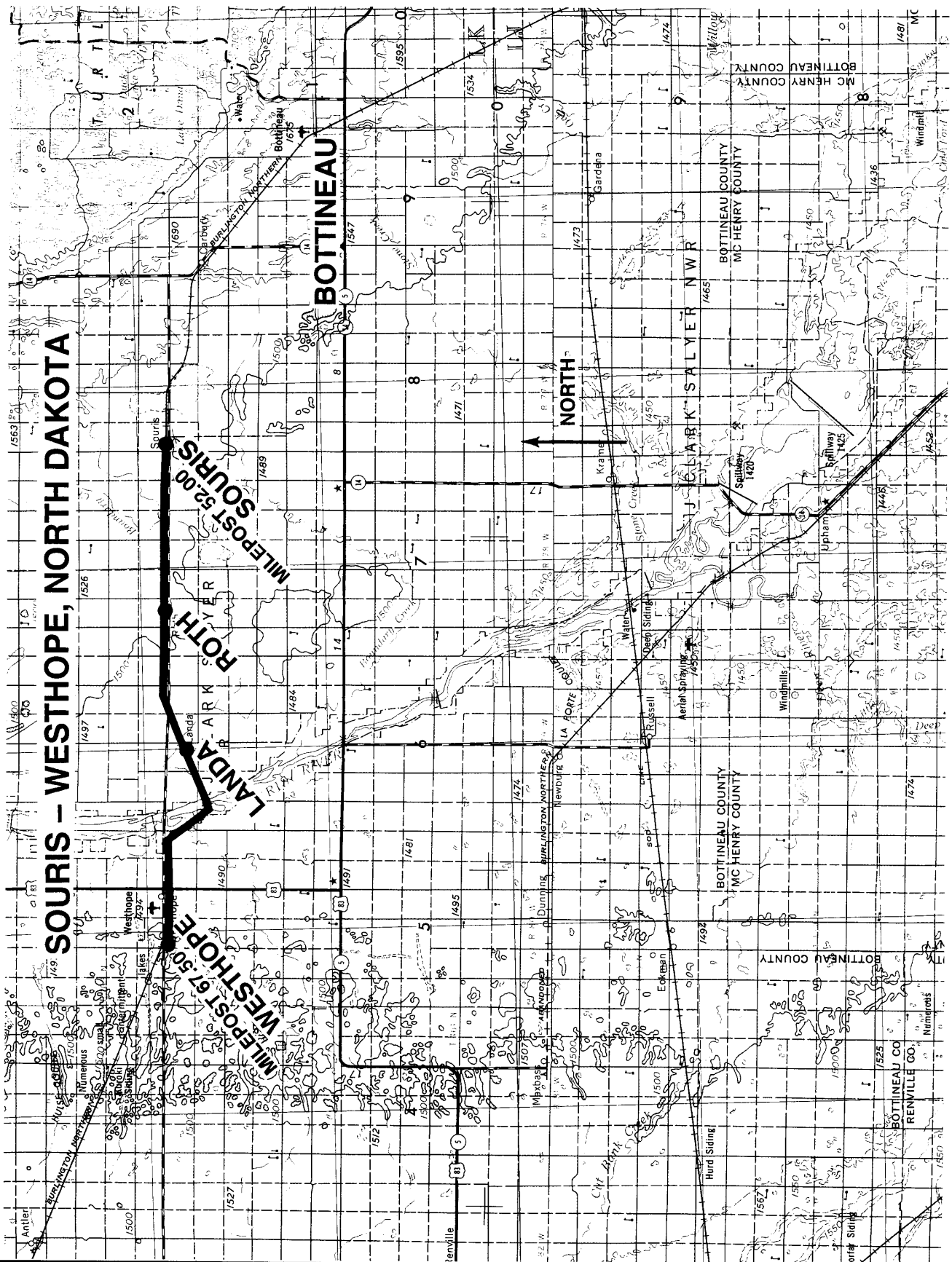
A handwritten signature in black ink, appearing to read "Michael Smith", with a stylized flourish extending to the right.

Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

Date: April 8, 2004

A

# SOURIS - WESTHOPE, NORTH DAKOTA



**B**



Freeborn & Peters LLP

December 10, 2003

Verdean Kveum  
County Commissioner, Chair  
Bottineau County Board of Commissioners  
314 West 5th Street W  
County Courthouse  
Bottineau, ND 58318-1204

**Re:    *The Burlington Northern and Santa Fe Railway Company Abandonment  
of Souris, North Dakota to Westhope, North Dakota***

*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Brian Nettles  
Paralegal  
Direct 312.360.6336  
Fax 312.360.6596  
bnettl@  
freebornpeters.com

*Chicago*

*Springfield*

Dear Mr. Kveum:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 15.50 miles of railroad line between M.P. 52.00 in Souris, North Dakota to M.P. 67.50 in Westhope, North Dakota.

As part of the environmental report BNSF needs to know whether or not the proposed action is consistent with local land use plans and if there are any alternate public uses for the corridor such as a recreational trail.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn  
Enclosure

C



United States  
Department of  
Agriculture

Natural Resources  
Conservation  
Service

Bottineau Field Office  
117 West 5<sup>th</sup> St.  
Bottineau, ND 58318

January 8, 2004

Brian Nettles  
Freeborn & Peters LLP  
311 South Wacker Drive  
Suite 3000  
Chicago, IL 60606-6677

RE: The Burlington Northern and Santa Fe Railway Company Abandonment of Souris, North Dakota to Westhope, North Dakota

Dear Mr. Nettles:

I have reviewed the information you sent regarding proposed abandonment of 15.5 miles of railroad line between M.P. 52.00 in Souris and M.P. 67.50 in Westhope. Your letter indicated that the old roadbed will be left intact. An AD 1006 Farmland Conversion Impact Rating, will not need to be filled out regarding impact on prime farmland, unless there will be disturbance outside the Railroad Right of Way. If there will be disturbance outside the Railroad Right of Way, let me know where and we will process the AD 1006. Prime farmlands are in the project area but area expected to have minimal impact.

Thank you for the opportunity to review and comment on this project. Should you require additional information or discussion, please contact me at 701-228-3611 Ext. 3.

Sincerely,

Cynthia Roth  
District Conservationist

The Natural Resources Conservation Service works hand in hand with the American people to conserve natural resources on private lands.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, sexual orientation or marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-7569 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326W, Whitten Building, 1400 Independence Avenue, S.W., Washington, DC 20250-9410; or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

D



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

Ecological Services  
3425 Miriam Avenue  
Bismarck, North Dakota 58501



DEC 17 2003

Mr. Brian Nettles  
Freeborn and Peters LLP  
311 South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606

RE: BNSF Railroad Abandonment, Souris to  
Westhope, North Dakota

Dear Mr. Nettles:

In response to your December 10, 2003, letter, the U.S. Fish and Wildlife Service (Service) has reviewed the plan submitted by Burlington Northern Sante Fe Railway Company to abandon 15.5 miles of railroad line between M.P. 52.00 in Souris, North Dakota, and M.P. 67.5 in Westhope, North Dakota. Approximately 1.8 miles of the line crosses J. Clark Salyer National Wildlife Refuge (NWR). We request that the track material such as the rails and ties be removed from this portion of the line. T. 163 N., R. 79 W., Section 31 and T. 162 N., R. 79 W., Sections 5 and 6 will be affected. I have included a map depicting refuge boundaries. If further guidance is needed in determining the refuge boundary in Section 5, please contact Gary Erickson of J. Clark Salyer NWR at 701-768-2548.

The Service does not object to the project as proposed provided our recommendations are incorporated into the project plan. Thank you for the opportunity to provide comments. If further information is required, please contact Ms. Kelly McDermott of my staff at 701-250-4402. or at the letterhead address.

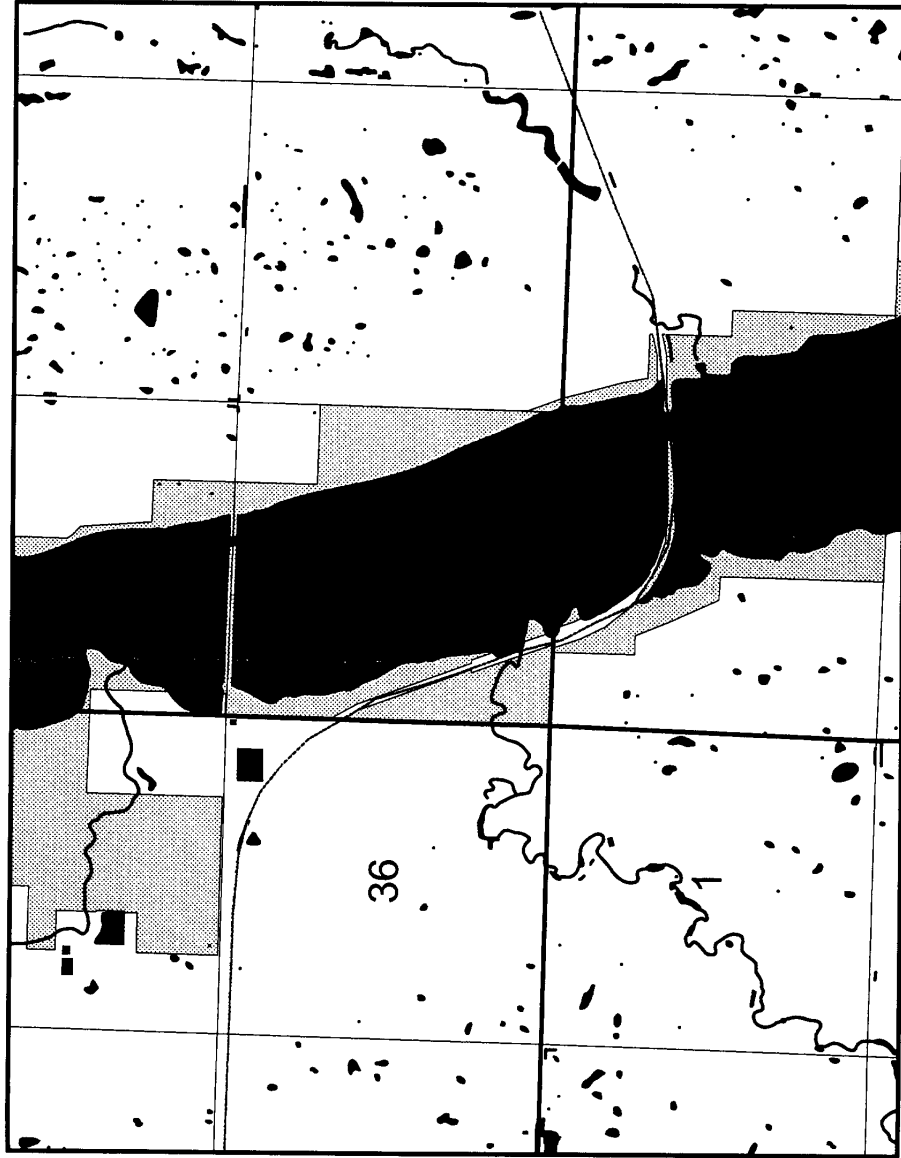
Sincerely,

Jeffrey K. Towner  
Field Supervisor  
North Dakota Field Office

Enclosure

cc: Project Leader, J. Clark Salyer WMD

# BNSF Railroad Abandonment Souris to Westhope, North Dakota



- Railroad
- Wetlands/Riverine
- J. Clark Salyer National Wildlife Refuge Boundary



T. 162 N. T. 163 N.

R. 80 W. R. 79 W.

E





## United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
North Dakota Field Office  
2933 3<sup>rd</sup> Ave West  
Dickinson, ND 58601  
701-227-7700  
<http://www.mt.blm.gov/ndfo/>

In Reply To:

2700  
LRG

January 6, 2004

Brian Nettles  
Freeborn & Peters LLP  
311 South Wacker Drive, Suite 3000  
Chicago, IL 60606-6677


RE: The Burlington Northern and Santa Fe Railway Company Abandonment of Souris, North Dakota to Westhope, North Dakota

Dear Mr. Nettles:

The Bureau of Land Management (BLM) has no wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact area.

However, please keep the BLM informed as to the continued process. These railroad abandonments depending under which Act they were granted, impact the BLM. We appreciate the opportunity to comment.

Sincerely,

  
Linda Gisvold  
Realty

F



1600 East Century Avenue, Suite 3  
Bismarck, ND 58503-0649

Phone 701-328-5357  
Fax 701-328-5363  
E-mail [parkrec@state.nd.us](mailto:parkrec@state.nd.us)  
[www.NDparks.com](http://www.NDparks.com)

December 18, 2003

Brian Nettles  
Freeborn & Peters  
311 South Wacker Drive, Suite 3000  
Chicago, IL 60606-6677

Re: The Burlington Northern and Santa Fe Railway Company Abandonment of Souris, North Dakota to Westhope,  
North Dakota

Dear Mr. Nettles:

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above referenced application to abandon 15.5 miles of railroad line between M.P. 52.00 in Souris, North Dakota to M.P. 67.50 in Westhope, North Dakota, Bottineau County.

Our agency scope of authority and expertise covers recreation and biological resources (in particular rare species and ecological communities). The project as defined does not affect state park lands that we manage or Land and Water Conservation Fund recreation projects that we coordinate.

The North Dakota Natural Heritage Inventory has limited rare species information from the project area. Due to the lack of available survey data we cannot give an accurate assessment as to potential impacts to rare species and associated habitats.

The NDPRD recommends that any impacted areas be revegetated with species native to the project area.

Thank you for the opportunity to comment on this project. Please contact Kathy Duttenehner (701-328-5370) of our staff if additional information is needed.

Sincerely,

  
Jesse Hanson, Coordinator  
Planning and Natural Resources Division

R.USNDNHI\*1225

.....  
*Play in our backyard!*

G

Freeborn & Peters LLP

December 10, 2003

North Dakota Department of Health  
Water Quality Division  
1200 Missouri Ave.  
P.O. Box 5520  
Bismarck, ND 58506-5520

**Re:   *The Burlington Northern and Santa Fe Railway Company Abandonment  
of Souris, North Dakota to Westhope, North Dakota***

*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Brian Nettles  
Paralegal  
Direct 312.360.6336  
Fax 312.360.6596  
bnettl@  
freebornpeters.com

*Chicago*

*Springfield*

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 15.50 miles of railroad line between M.P. 52.00 in Souris, North Dakota to M.P. 67.50 in Westhope, North Dakota.

As part of the environmental report BNSF needs to know whether or not this action will be consistent, with Federal, State or local water quality standards. Also, please state whether or not Section 402 and/or NPDES permits are required as a result of the proposed abandonment.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact. No placement of dredge or fill material in any inland waterways is anticipated to result from abandonment and/or salvage.

For your reference I have enclosed a map of the above referenced railroad line. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn  
Enclosure

H



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
CORPS OF ENGINEERS, OMAHA DISTRICT  
NORTH DAKOTA REGULATORY OFFICE  
1513 SOUTH 12<sup>TH</sup> STREET  
BISMARCK ND 58504-6640  
December 23, 2003

North Dakota Regulatory Office

[200360621]

Brian Nettles  
Freeborn & Peters LLP  
311 South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606-6677

Dear Mr. Nettles:


This is in reference to your solicitation letter, on behalf of the **Burlington Northern and Santa Fe Railway Company**, for a Department of the Army (DA) review in accordance with Section 404 of the Clean Water Act. You are proposing to abandon 15.50 miles of railroad line between Souris, North Dakota and Westhope, North Dakota. The legal description numerous sections in Townships 162 and 163, Ranges 77, 78, 79, and 80, Bottineau County, North Dakota.

Based on the information provided to this office, it has been determined that your proposed project, as presently designed, would be accomplished without discharging in a jurisdictional area and therefore, a Section 404 permit would not be required. However, DA authorization may be required should changes be made in your project.

The fact that a Section 404 permit is not required does not relieve you of the obligation to obtain required approvals from other agencies that may have regulatory jurisdiction over your project.

If you have any questions concerning this determination, please do not hesitate to contact this office by letter or telephone (701) 255-0015 and reference project number **200360621**.

Sincerely,

  
James L. Winters  
Regulatory Program Manager  
North Dakota





Freeborn & Peters LLP

December 10, 2003

Bottineau County Emergency Management  
314 5th Street W  
Bottineau, ND 58318-1204

**Re:    *The Burlington Northern and Santa Fe Railway Company Abandonment  
      of Souris, North Dakota to Westhope, North Dakota***

*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
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*Chicago*

*Springfield*

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 15.50 miles of railroad line between M.P. 52.00 in Souris, North Dakota to M.P. 67.50 in Westhope, North Dakota.

As part of the environmental report BNSF needs to know if the proposed abandonment will affect any 100-year floodplains. If so, please furnish 8 & ½ by 11 black and white maps in the area of each designated floodplain if they are available.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by January 10, 2004. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn  
Enclosure

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**STATE  
HISTORICAL  
SOCIETY  
OF NORTH DAKOTA**

John Hoeven  
Governor of North Dakota

February 19, 2004

**North Dakota  
State Historical Board**

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Director

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Brian Nettles  
Freeborn & Peters LLP  
311 South Wacker Drive, Suite 3000  
Chicago, IL 60606-6677

**NDSHPO REF.: 04-0288**, Proposed BN&SF Railway Co. Abandonment, Souris  
to Westhope, Bottineau County, ND.

Dear Mr. Nettles:

We have reviewed Project: 04-0288, proposed abandonment of the Burlington  
Northern and Santa Fe Railway Company line between the Cities of Souris  
and Westhope, North Dakota.

We recommend that a Class I Cultural Resources Inventory (i.e., files search) of  
the Area of Potential Effect (APE) be prepared and submitted to our office for  
consultation. The results of the files search should include a short report detailing  
all cultural resources (including potential or actual historic properties) in the legal  
sections of the APE and 7.5' topographic maps with the cultural resource locations  
and previously inventoried areas plotted and marked on it.

We also recommend that any previously unrecorded and unevaluated abandoned  
or to-be-abandoned stations over 50 years of age along the railway line (i.e., in the  
Cities of Westhope, Landa, Roth, and Souris, and any other stations) be recorded  
and preliminarily evaluated by a state-permitted cultural resource firm.

Thank you for the opportunity to review this project. Please include the ND  
SHPO Reference number listed above in any further correspondence for this  
specific project. If you have any questions please contact Duane Klinner at (701)  
328-3576.

Sincerely,

Merlan E. Paaverud, Jr.  
State Historic Preservation Officer  
(North Dakota)